

DAVID H. KRAMER, State Bar No. 168452
COLLEEN BAL, State Bar No. 167637
LISA A. DAVIS, State Bar No. 179854
BART E. VOLKMER, State Bar No. 223732
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 565-5100
DKramer@wsgr.com

JONATHAN M. JACOBSON, N.Y. State Bar No. 1350495
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
12 East 49th Street, 30th Floor
New York, NY 10017-8203
Telephone: (212) 999-5800
Facsimile: (212) 999-5899
JJacobson@wsgr.com

Attorneys for Defendant
Google Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KINDERSTART.COM, LLC, a California
limited liability company, on behalf of itself and
all others similarly situated,

Plaintiffs,

v.

GOOGLE INC., a Delaware corporation,

Defendant.

CASE NO.: C 06-2057 JF (RS)

**DECLARATION OF DAVID H.
KRAMER IN SUPPORT OF
DEFENDANT'S MOTION FOR
SANCTIONS AGAINST
KINDERSTART.COM AND
GREGORY J. YU PURSUANT TO
FED. R. CIV. P. RULE 11**

Before: Hon. Jeremy Fogel
Date: December 8, 2006
Time: 9:00 a.m.
Courtroom: 3, 5th Floor

1 I, David H. Kramer, declare as follows:

2 1. I am a partner with Wilson Sonsini Goodrich & Rosati ("WSGR") and counsel of
3 record for Defendant Google Inc. ("Google") in this action. The following facts are true of my
4 personal knowledge and if called and sworn as a witness, I could and would testify competently
5 to them.

6 2. Google hand-served, but did not file, its Motion for Sanctions in this matter (the
7 "Motion"), along with the supporting Declaration of Matt Cutts, on KinderStart's counsel,
8 Gregory Yu, on September 28, 2006. KinderStart did not take any remedial steps concerning the
9 conduct described in the Motion. Accordingly, on October 20, 2006, 22 days after the Motion
10 was served, Google filed the Motion with the Court.

11 3. On July 14, 2006, the Court issued an Order in this matter dismissing
12 KinderStart's First Amended Complaint, but granting KinderStart leave to amend. On July 20,
13 2006, I read a news article online which contained remarks attributed to KinderStart's counsel,
14 Mr. Yu, to the effect that KinderStart intended to file a second amended complaint. Attached
15 hereto as Exhibit A is a true and correct copy of that article, which may be found online at:
16 http://news.com.com/Judge+dismisses+suit+over+Google+ranking/2100-1030_3-6094132.html

17 4. After I read the article, I wrote to Mr. Yu to express Google's concern over
18 allegations that KinderStart might include in its Second Amended Complaint. A true and correct
19 copy of my email to Mr. Yu is attached hereto as Exhibit B.

20 5. In its opposition to this motion, KinderStart suggests that the Court reschedule the
21 hearing on Google's Rule 11 motion to January 19, 2007 so that it can be heard with
22 KinderStart's own sanctions motion. When I saw that suggestion, I called Mr. Yu, and offered to
23 stipulate to continue the hearing on this motion. Mr. Yu refused, claiming KinderStart did not
24 "want to go on record" as approving a continuance.

25 //

26 //

27 //

28 //

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct to the best of my knowledge. Executed on November 22, 2006 at Palo Alto,
3 California

4
5 By: /s/ David H. Kramer
6 David H. Kramer
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28